

Remarks

Claims 1 to 20 are presently pending in this patent application. Claims 1, 3 to 14 and 16 have been amended, without prejudice. No new matter has been added. Claims 19 and 20 are withdrawn, without prejudice, as directed to non-elected subject matter. In view of the following remarks, reconsideration and withdrawal of the rejections are respectfully requested.

Discussion of the 35 U.S.C. § 112, Second Paragraph Indefiniteness Rejections

Claims 1 to 6, 8 to 10, and 14 to 18 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly containing non-elected subject matter (Action at 4 to 5). Applicant respectfully traverses this rejection.

Applicant previously elected a single disclosed species for prosecution on the merits, pursuant to 35 U.S.C. § 121, to which the claims will be restricted if no generic claim is finally held to be allowable (MPEP § 809.02(a)). Applicant respectfully submits that in view of the *lack* of a final rejection for any generic claim, it is not necessary to limit the claims at this time.

Applicant respectfully further submits that the Examiner has improperly restricted the claims to *less than* a reasonable number of species, as is permitted under 37 C.F.R. § 1.146. In particular, the restriction of substituents X^3 , X^2 , R^2 and X^6 is undue. For example, X^3 was restricted from 11 generic recitations to 1 chemical structure, substituent X^2 was restricted from 6 generic recitations to only 1 chemical structure, R^2 was restricted from 37 to 3 generic recitations and X^6 was restricted from 35 to 1 generic recitation (Action at 3). Applicant respectfully submits that the scope of the generic claims being examined should be broadened to encompass additional compounds. Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

Claims 14 and 16 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite with regard to the format of the Markush groups recited therein (Action at 5). Applicant has amended claims 14 and 16 as suggested by the Examiner, and thus respectfully submits that this rejection is overcome.

Claims 1 to 4, 6, 8, 9, 17 and 18 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite with regard to the term “comprises” (Action at 8). Applicant has removed this term where it appears in the claims, and thus respectfully submits that this rejection is overcome.

Discussion of the 35 U.S.C. § 112, First Paragraph Enablement Rejection

Claims 1 to 4, 6, 8 to 10, 14, 17 and 18 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking enablement with regard to the terms “prodrug derivative”, “protected derivative”, “N-oxide derivative”, “isomer” and “mixture of isomers” (Action at 5 to 8). Applicant respectfully traverses this rejection.

The claims have been amended as suggested by the Examiner. Applicant respectfully submits that this rejection is moot in view of the foregoing amendments. Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

Conclusion

In the event any matters remain outstanding, the Examiner is requested to call the undersigned at the telephone number listed below. Applicants submit respectfully that this application is now in condition for allowance. Accordingly, an indication of allowability and an early Notice of Allowance are requested respectfully.

It is hereby requested that the term to respond to the Action of June 22, 2006 be extended pursuant to 37 C.F.R. § 1.136(a) for one (1) month, from September 22, 2006 to October 23, 2006. Included herein is an authorization to charge the extension fee to a credit card.

The Commissioner is authorized hereby to charge any additional fees or credit any overpayment associated with this Reply (copy enclosed) to Deposit Account Number 19-5425.

Respectfully submitted,
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